

HOUSE BILL 954
By Hargett

AN ACT to amend Tennessee Code Annotated, Section
49-2-203, relative to schools.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 49-2-203(a)(3)(C)(ii), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(C)

(ii) Construction management services which are provided for a fee and which involve the coordination and oversight of the planning, design, bid and construction phases of the project, are deemed to be professional services and may be performed by a qualified person on the basis of recognized competence and integrity. Construction management services are to be procured through a request for proposals process. The request for proposals process will in written form invite prospective proposers to participate. Requests for proposals will be forwarded by mail, fax, or e-mail to any known construction industry associations located within the state and within a 100-mile radius of the county in which the project will be constructed. The requests for proposals will in written form indicate the service requirements and all the factors to be used for evaluating the proposals. Proposals shall not be evaluated on any criteria or requirements other than those outlined in the request for proposals. Such factors shall include the construction manager's qualifications and experience on similar projects, qualifications of personnel to be assigned to the project, fees, or any additional factors deemed relevant by the procuring entity for procurement of the service; cost is not to be the sole criterion for evaluation, but shall be given at least fifty

percent (50%) weight in the evaluation process. The contract for such services will be awarded to the best-evaluated and responsive proposer. A construction manager's final negotiated price shall not exceed their proposed price by greater than five percent (5%). In the event the negotiated price will be greater than five percent (5%), then a new request for proposal must be issued and new proposals accepted for the project. In the event a school system wishes to issue a request for proposals for a construction manager for more than a single project, a separate request for proposal must be issued for each individual project unless those projects are to be completed on the same campus or lot. A construction manager is prohibited from undertaking actual construction work on a project over which such construction manager coordinates or oversees the planning, design, bid or construction phases of the project, except in instances where bids have been solicited twice and no bids have been submitted. If the construction manager can document that a good faith effort was made in each bid solicitation to obtain bids and no bids were received, then the construction manager can perform the construction work at a price agreed upon by the construction manager, the architect and the owner of the project. A school system, at its own discretion, may perform work on the project with its own employees and include the coordination and oversight of this work as part of the services of the construction manager;

SECTION 2. Tennessee Code Annotated, Section 49-2-203(a)(3)(C), is amended by adding the following as a new subdivision:

(v) School systems utilizing a construction manager may not require contractors to pay wages and benefits in excess of the state's prevailing wage rate for any construction trade;

SECTION 3. This act shall take effect upon becoming law, the public welfare requiring it.